

AMENDED IN SENATE JUNE 30, 2008

AMENDED IN SENATE JUNE 12, 2008

AMENDED IN ASSEMBLY JANUARY 17, 2008

AMENDED IN ASSEMBLY JANUARY 9, 2008

AMENDED IN ASSEMBLY JANUARY 7, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1203

Introduced by Assembly Member Salas

February 23, 2007

An act to amend Section 1371.4 of, and to repeal and add Section 1262.8 of, the Health and Safety Code, relating to health care.

LEGISLATIVE COUNSEL’S DIGEST

AB 1203, as amended, Salas. Health care service plans: noncontracting hospitals: poststabilization care.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the licensure and regulation of health facilities by the State Department of Public Health and makes a violation of those provisions a misdemeanor.

Existing law requires a noncontracting hospital to contact an enrollee’s health care service plan to obtain the enrollee’s medical record information prior to admitting the enrollee as an inpatient for poststabilization care, transferring an enrollee to a noncontracting hospital for poststabilization care, or providing poststabilization care

to an enrollee admitted for medically necessary care, under specified conditions. Existing law requires a health care service plan contacted by a hospital under these circumstances to, among other things, discuss the enrollee's medical record with an appropriate hospital representative and transmit any appropriate and requested portion of the enrollee's medical record to the hospital representative. Existing law requires a health care service plan, or its contracting medical providers, to provide 24-hour access for providers to obtain timely authorization for medically necessary care in specified circumstances. Existing law also prohibits a noncontracting hospital that is required to contact an enrollee's health care service plan, and fails to do so, from billing the enrollee for poststabilization care.

This bill would recast those provisions to prohibit a noncontracting hospital from providing poststabilization care to a patient who is an enrollee of a health care service plan that requires prior authorization for poststabilization care unless specified requirements are met. The bill would prohibit a noncontracting hospital from billing that patient for poststabilization care, except for applicable copayments, coinsurance, and deductibles, unless the patient assumes financial responsibility for the care, as specified, or the hospital is unable to obtain the health care service plan's name and contact information, as specified. The bill would delete the requirement that a health care service plan contacted for poststabilization care authorization discuss the enrollee's medical record with an appropriate hospital representative and ~~transmit any appropriate and requested portion of the enrollee's medical record to the hospital representative~~ *would instead require the noncontracting hospital's representative, upon receiving authorization for poststabilization care, to request the patient's medical record from the patient's plan or its contracting medical provider.* In addition, the bill would specifically require that a health care service plan, or its contracting medical providers, provide 24-hour access for noncontracting hospitals to obtain timely authorization for poststabilization care, as specified. The bill would enact other related provisions.

Because a violation of the bill's provisions would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1262.8 of the Health and Safety Code is
2 repealed.
3 SEC. 2. Section 1262.8 is added to the Health and Safety Code,
4 to read:
5 1262.8. (a) A noncontracting hospital shall not bill a patient
6 who is an enrollee of a health care service plan for poststabilization
7 care, except for applicable copayments, coinsurance, and
8 deductibles, unless the requirements of subdivision (f) are met or
9 the hospital is unable to obtain the name and contact information
10 of the patient's health care service plan as provided in subdivision
11 (c).
12 (b) If a patient with an emergency medical condition is covered
13 by a health care service plan that requires prior authorization for
14 poststabilization care, a noncontracting hospital shall not provide
15 poststabilization care to the patient unless both of the following
16 conditions are met:
17 (1) The hospital does all of the following once the emergency
18 medical condition has been stabilized:
19 (A) Seeks to obtain, exercising reasonable diligence, the name
20 and contact information of the patient's health care service plan.
21 The hospital shall document its attempt to ascertain this information
22 in the patient's medical record. For purposes of this subparagraph,
23 "reasonable diligence" means requesting the patient's health care
24 service plan member card or asking the patient, or a family member
25 or friend accompanying the patient, if he or she can identify the
26 patient's health care service plan.
27 (B) Contacts the patient's health care service plan, or its
28 contracting medical provider, for authorization to provide
29 poststabilization care, if identification of the plan was obtained
30 pursuant to subparagraph (A).
31 (i) The hospital shall make the contact described in this
32 subparagraph by either following the instructions on the patient's
33 health care service plan member card or using the contact
34 information provided by the patient's health care service plan
35 pursuant to subdivision ~~(h) or (i)~~ (j) or (k).

(ii) A representative of the hospital shall not be required to make more than one telephone call to the health care service plan, or its contracting medical provider, provided that in all cases the health care service plan, or its contracting medical provider, shall be able to reach a representative of the hospital upon returning the call, should the plan, or its contracting medical provider, need to call back. The representative of the hospital who makes the telephone call may be, but is not required to be, a physician and surgeon.

(C) Upon request of the patient's health care service plan, or its contracting medical provider, provides to the plan, or its contracting medical provider, the treating physician and surgeon's diagnosis and any other relevant information reasonably necessary to make a decision to authorize poststabilization care or to assume management of the patient's care by prompt transfer.

(2) One of the following conditions applies:

(A) The patient's health care service plan, or its contracting medical provider, provides authorization for the poststabilization care.

(B) The patient's health care service plan, or its contracting medical provider, fails to respond to the hospital's contact pursuant to subparagraph (B) of paragraph (1) within the period of time described in subdivision (d).

(C) The patient's health care service plan, or its contracting medical provider, decides to assume management of the patient's care by prompt transfer and either the health care service plan or its contracting medical provider fails to transfer the patient within a reasonable time or the patient, or his or her representative, does not consent to the transfer pursuant to subdivision (e).

(c) A noncontracting hospital that is not able to obtain the name and contact information of the patient's health care service plan pursuant to subdivision (b) is not subject to the requirements of this section.

(d) (1) A health care service plan, or its contracting medical provider, ~~shall respond to the noncontracting hospital's contact pursuant to subparagraph (B) of paragraph (1) of subdivision (b) within 30 minutes, and shall inform the hospital of its decision to authorize poststabilization care or to assume management of the patient's care by prompt transfer.~~ *provider, that is contacted by a noncontracting hospital pursuant to subparagraph (B) of paragraph (1) of subdivision (b), shall, within 30 minutes from*

1 *the time the noncontracting hospital makes the initial contact, do*
2 *either of the following:*

3 (A) *Authorize poststabilization care.*

4 (B) *Inform the noncontracting hospital that it will arrange for*
5 *the prompt transfer of the enrollee to another hospital.*

6 (2) If the health care service plan, or its contracting medical
7 provider, does not ~~respond to the hospital's contact~~ *notify the*
8 *noncontracting hospital of its decision pursuant to paragraph (1)*
9 *within 30 minutes, or fails to transfer the patient within a*
10 *reasonable time, the poststabilization care shall be deemed*
11 *authorized, and the health care service plan, or its contracting*
12 *medical provider, shall pay reasonable charges for the care in*
13 *compliance with Section 1371.*

14 (e) If a health care service plan, or its contracting medical
15 provider, decides to assume management of the patient's care by
16 prompt transfer, the health care service plan, or its contracting
17 medical provider, shall do all of the following:

18 (1) Arrange and pay the reasonable charges associated with the
19 transfer of the patient.

20 (2) Pay for all of the immediately required medically necessary
21 care rendered to the patient prior to the transfer in order to maintain
22 the patient's clinical stability.

23 (3) Be responsible for making all arrangements for the patient's
24 transfer, including, but not limited to, finding a contracted facility
25 available for the transfer of the patient.

26 (f) (1) If the patient, or the patient's spouse or legal guardian,
27 does not consent to the patient's transfer under subdivision (e),
28 the health care service plan, or its contracting medical provider,
29 shall promptly provide a written notice to the noncontracting
30 hospital indicating that the patient will be financially responsible
31 for any further poststabilization care provided by the hospital.

32 (2) The written notice provided pursuant to this subdivision
33 shall include the following statement:

34
35 "You have just received emergency care at a hospital that
36 is not in your health plan's network. Your health plan pays
37 for emergency care.

38 The doctor who is taking care of you at this hospital has
39 decided that your health is stable and you may be safely moved

1 to another hospital that is covered by your health plan for more
2 care.

3 If you agree to be moved to a hospital that is covered by
4 your health plan, the plan will pay for the transportation and
5 your care at that in-network hospital. You will only have to
6 pay for your deductible, copayments, or co-insurance.

7 IF YOU DECIDE TO STAY AT THIS HOSPITAL, YOU
8 WILL HAVE TO PAY THE FULL COST OF CARE NOW
9 THAT YOUR HEALTH IS STABLE. This cost includes the
10 cost of the doctor or doctors, the hospital, and any laboratory,
11 radiology, or other services that you receive after this point.

12 IF YOU DO NOT THINK YOU CAN BE SAFELY
13 MOVED, TALK TO THE DOCTOR ABOUT YOUR
14 CONCERNS. YOU MAY ALSO CALL YOUR HEALTH
15 PLAN MEMBER SERVICES DEPARTMENT FOR HELP.
16 LOOK ON YOUR HEALTH PLAN MEMBER CARD FOR
17 THAT NUMBER. YOU MAY ALSO CALL THE HMO
18 HELPLINE, 24 HOURS A DAY, 7 DAYS A WEEK, AT
19 888-HMO-2219.”

20
21 (3) The health care service plan, or its contracting medical
22 provider, shall provide two copies of the written notice required
23 by this subdivision to the hospital. The health care service plan,
24 or its contracting medical provider, may send these copies to the
25 hospital by facsimile. The hospital shall give one copy to the
26 patient, or the patient’s spouse or legal guardian, for signature and
27 may retain the other copy.

28 (4) The hospital shall cooperate in assuring prompt delivery of
29 the notice to the patient or his or her spouse or legal guardian. The
30 hospital shall obtain signed acceptance of the written notice
31 required by this subdivision, and signed acceptance of any other
32 documents the hospital requires for any further poststabilization
33 care, from the patient or the patient’s spouse or legal guardian,
34 and shall provide the health care service plan, or its contracting
35 medical provider, with confirmation of the patient’s, or his or her
36 spouse or legal guardian’s, receipt of the written notice.

37 (5) If a health care service plan, or its contracting medical
38 provider, fails to provide the written notice required by this
39 subdivision to the noncontracting hospital, the health care service

1 plan, or its contracting medical provider, shall pay all reasonable
2 charges for the poststabilization care provided to the patient.

3 (6) If the noncontracting hospital fails to meet the requirements
4 of this subdivision, the hospital shall not bill the patient or the
5 patient's health care service plan, or its contracting medical
6 provider, for poststabilization care provided to the patient.

7 *(g) Upon receiving authorization for poststabilization care, the*
8 *noncontracting hospital's representative or the noncontracting*
9 *physician and surgeon shall request the patient's medical record*
10 *from the patient's health care service plan or its contracting*
11 *medical provider.*

12 *(h) The health care service plan, or its contracting medical*
13 *provider, shall transmit any appropriate portion of the patient's*
14 *medical record, if available, via facsimile transmission or*
15 *electronic mail, whichever method is requested by the*
16 *noncontracting hospital's representative or the noncontracting*
17 *physician and surgeon. The health care service plan, or its*
18 *contracting medical provider, shall transmit the patient's medical*
19 *record in a manner that complies with all legal requirements to*
20 *protect the patient's privacy.*

21 ~~(g)~~

22 (i) A health care service plan, or its contracting medical provider,
23 that requires prior authorization for poststabilization care shall
24 provide 24-hour access for patients and providers, including
25 noncontracting hospitals, to obtain timely authorization for
26 medically necessary poststabilization care.

27 ~~(h)~~

28 (j) A health care service plan shall provide all noncontracting
29 hospitals in the state with specific contact information needed to
30 make the contact required by this section. The contact information
31 provided to hospitals shall be updated as necessary, but no less
32 than once a year.

33 ~~(i)~~

34 (k) In addition to meeting the requirements of subdivision ~~(h)~~
35 (j), a health care service plan shall provide the contact information
36 described in subdivision ~~(h)~~ (j) to the State Department of Public
37 Health or the Department of Managed Health Care. The contact
38 information provided pursuant to this subdivision shall be updated
39 as necessary, but no less than once a year. The receiving department
40 shall post this contact information on its Internet Web site.

1 ~~(j)~~

2 ~~(l)~~ This section shall only apply to a noncontracting hospital.

3 ~~(k)~~

4 ~~(m)~~ For purposes of this section, the following definitions shall
5 apply:

6 (1) “Health care service plan” has the same meaning as that
7 term is defined in Section 1345 and includes, but is not limited to,
8 a Medi-Cal managed care plan.

9 (2) “Noncontracting hospital” means a general acute care
10 hospital, as defined in subdivision (a) of Section 1250, that does
11 not have a written contract with the patient’s health care service
12 plan to provide poststabilization care to the patient.

13 (3) “Poststabilization care” means medically necessary care
14 provided after an emergency medical condition has been stabilized,
15 as defined by subdivision (j) of Section 1317.1.

16 SEC. 3. Section 1371.4 of the Health and Safety Code is
17 amended to read:

18 1371.4. (a) A health care service plan, or its contracting
19 medical providers, shall provide 24-hour access for enrollees and
20 providers, including, but not limited to, noncontracting hospitals,
21 to obtain timely authorization for medically necessary care, for
22 circumstances where the enrollee has received emergency services
23 and care is stabilized, but the treating provider believes that the
24 enrollee may not be discharged safely. A physician and surgeon
25 shall be available for consultation and for resolving disputed
26 requests for authorizations. A health care service plan that does
27 not require prior authorization as a prerequisite for payment for
28 necessary medical care following stabilization of an emergency
29 medical condition or active labor need not satisfy the requirements
30 of this subdivision.

31 (b) A health care service plan, or its contracting medical
32 providers, shall reimburse providers for emergency services and
33 care provided to its enrollees, until the care results in stabilization
34 of the enrollee, except as provided in subdivision (c). As long as
35 federal or state law requires that emergency services and care be
36 provided without first questioning the patient’s ability to pay, a
37 health care service plan shall not require a provider to obtain
38 authorization prior to the provision of emergency services and care
39 necessary to stabilize the enrollee’s emergency medical condition.

1 (c) Payment for emergency services and care may be denied
2 only if the health care service plan, or its contracting medical
3 providers, reasonably determines that the emergency services and
4 care were never performed; provided that a health care service
5 plan, or its contracting medical providers, may deny reimbursement
6 to a provider for a medical screening examination in cases when
7 the plan enrollee did not require emergency services and care and
8 the enrollee reasonably should have known that an emergency did
9 not exist. A health care service plan may require prior authorization
10 as a prerequisite for payment for necessary medical care following
11 stabilization of an emergency medical condition.

12 (d) If there is a disagreement between the health care service
13 plan and the provider regarding the need for necessary medical
14 care, following stabilization of the enrollee, the plan shall assume
15 responsibility for the care of the patient either by having medical
16 personnel contracting with the plan personally take over the care
17 of the patient within a reasonable amount of time after the
18 disagreement, or by having another general acute care hospital
19 under contract with the plan agree to accept the transfer of the
20 patient as provided in Section 1317.2, Section 1317.2a, or other
21 pertinent statute. However, this requirement shall not apply to
22 necessary medical care provided in hospitals outside the service
23 area of the health care service plan. If the health care service plan
24 fails to satisfy the requirements of this subdivision, further
25 necessary care shall be deemed to have been authorized by the
26 plan. Payment for this care may not be denied.

27 (e) A health care service plan may delegate the responsibilities
28 enumerated in this section to the plan's contracting medical
29 providers.

30 (f) Subdivisions (b), (c), (d), (g), and (h) shall not apply with
31 respect to a nonprofit health care service plan that has 3,500,000
32 enrollees and maintains a prior authorization system that includes
33 the availability by telephone within 30 minutes of a practicing
34 emergency department physician.

35 (g) The Department of Managed Health Care shall adopt by
36 July 1, 1995, on an emergency basis, regulations governing
37 instances when an enrollee requires medical care following
38 stabilization of an emergency medical condition, including
39 appropriate timeframes for a health care service plan to respond
40 to requests for treatment authorization.

(h) The Department of Managed Health Care shall adopt, by July 1, 1999, on an emergency basis, regulations governing instances when an enrollee in the opinion of the treating provider requires necessary medical care following stabilization of an emergency medical condition, including appropriate timeframes for a health care service plan to respond to a request for treatment authorization from a treating provider who has a contract with a plan.

(i) The definitions set forth in Section 1317.1 shall control the construction of this section.

(j) (1) A health care service plan that is contacted by a hospital pursuant to Section 1262.8 shall, within 30 minutes of the time the hospital makes the initial telephone call requesting information, either authorize poststabilization care or inform the hospital that it will arrange for the prompt transfer of the enrollee to another hospital.

(2) A health care service plan that is contacted by a hospital pursuant to Section 1262.8 shall reimburse the hospital for poststabilization care rendered to the enrollee if any of the following occur:

(A) The health care service plan authorizes the hospital to provide poststabilization care.

(B) The health care service plan does not respond to the hospital's initial contact or does not make a decision regarding whether to authorize poststabilization care or to promptly transfer the enrollee within the timeframe set forth in paragraph (1).

(C) There is an unreasonable delay in the transfer of the enrollee, and the noncontracting physician and surgeon determines that the enrollee requires poststabilization care.

(3) A health care service plan shall not require a hospital representative or a noncontracting physician and surgeon to make more than one telephone call pursuant to Section 1262.8 to the number provided in advance by the health care service plan. The representative of the hospital that makes the telephone call may be, but is not required to be, a physician and surgeon.

(4) An enrollee who is billed by a hospital in violation of Section 1262.8 may report receipt of the bill to the health care service plan and the department. The department shall forward that report to the State Department of Public Health.

1 (5) For purposes of this section, “poststabilization care” means
2 medically necessary care provided after an emergency medical
3 condition has been stabilized.

4 SEC. 4. No reimbursement is required by this act pursuant to
5 Section 6 of Article XIII B of the California Constitution because
6 the only costs that may be incurred by a local agency or school
7 district will be incurred because this act creates a new crime or
8 infraction, eliminates a crime or infraction, or changes the penalty
9 for a crime or infraction, within the meaning of Section 17556 of
10 the Government Code, or changes the definition of a crime within
11 the meaning of Section 6 of Article XIII B of the California
12 Constitution.